(32)

HIGH COURT OF JUDICATURE, CHHATTISGARH AT BILASPUR

Writ Petition No. 2318 of 2003

PETITIONER: A. R. Yadav, S/o Uma Prasad Yadav, aged about 58 years, Working as Sub Divisional Officer, Hansdeo Right Bank Canal, Sub-Division No.5, Jarve, District- Janjgir Chanpa (C.G.).

Versus

RESPONDENTS:

1. State of Chhattisgarh, Through the Secretary, Irrigation Department, Mantralaya, D.K.S. Bhawan, Shastri Chowk, Raipur (C.G.)

2. Executive Engineer, Mini Mata Bango Babandh, Division-II, Chanpa, District- Janjgir Chanpa (C.G.)

3. Sub Divisional Officer, (Revenue) Janjgir Chanpa, District- Janjgir Chanpa (C.G.)

POST FOR ORDER ON 28th August, 2003

Sd/-
L.C. Bhadoo
Judge
27th August, 2003

(33)

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3. Sub Divisional Officer, (Revenue) Janjgir Champa, District- Janjgir Champa (C.G.)

Shri Vinay Pandey, Advocate: For the petitioner

Before: Hon'ble Mr. Justice L.C. Bhadoo, J.

ORDER

(Passed on 28th August, 2003)

1. By this petition under Articles 226/227 of the Constitution of India the petitioner has challenged the action of the respondents in issuing the orders contained in Annexures P/4, P/6 and P/8 whereby the petitioner has been asked to vacate the Govt. house F-3 situated at Champa.
2. The petitioner is working as S.D.O. in Irrigation Department and presently posted at Jarve. His case is that the aforesaid house was allotted to him on the ground of his health for medical treatment. His further contention is that only one year and 11 months period is left for him to attain the age of superannuation. The house in question was allotted to him on 5.8.1998 under

(34)

Annexure P/1 and vide Annexure P/2 the Superintending Engineer of Hansdeo Pariyojna directed the Respondent No.2 though the petitioner is posted at Jarve but he be allowed to continue and retain the house at Champa. The petitioner is undergoing medical treatment and at the time of emergency the house in question is required for the use of the petitioner.

3. Vide Annexure P/4 dated 19.9.2002 the Respondent No.3 informed the petitioner to vacate the house within a period of 15 days. The petitioner made a representation Annexure P/5 mentioning therein that the other officers who are working 70 to 80 k.m. away, they are residing at Champa but on account of bias of the Executive Engineer the petitioner is being asked to vacate the house and ultimately on 26.5.2003 Annexure P/6 was issued under the provisions of Lok Parisar (Bedakhli) Adhiniyam, 1974 which is illegal and arbitrary. The petitioner made a representation Annexure P/7. Under the circumstances the petitioner is entitled to continue in the house in question on the ground of medical treatment and also on the ground that other officers are also occupying Govt. accommodation in the Irrigation Colony, Champa who are posted at distinct places in comparison to the petitioner.

4. I have heard learned counsel for the petitioner.

5. It is not disputed that the petitioner is presently posted at Hansdeo Bango Pariyojna at Jarve and the house in question was allotted to the petitioner in the year 1998. The petitioner is not posted at Champa, therefore as of right he is not entitled to retain the Govt. Accommodation because his headquarter is at Jarve.

6. Now coming to the question of treatment, as the petitioner is performing his duties, therefore no question of having house at Champa arises on the medical ground. More over the petitioner is occupying that house since last five years.

7. The only question which is in favour of the petitioner is that if other officers who are posted out of Champa are allowed to retain the house in Irrigation Colony then the question comes why the petitioner is not being allowed to

35

retain the house in question. But this cannot create a right in favour of the petitioner. The petitioner has already made a representation to the Collector that on account of bias of the Executive Engineer this action is taken against him. The petitioner is allowed to make a representation within a period of 10 days from today to the Collector, District- Janjgir Champa for his consideration that other officers who are posted out of Champa are also occupying the Govt. house then why the petitioner is being asked to vacate the house. Secondly if the houses are already lying vacant in the Irrigation Colony and the officers who are posted at Champa are not interested in taking the Govt. Accommodation then there is no point in asking the petitioner to vacate the house. After receipt of such representation the Collector, District- Janjgir Champa will decide the same in an objective manner by an appropriate order within a period of 15 days from the date of receipt of the representation and the order of the Collector will be final.

8. With the above observation this petition stands disposed of finally. Consequently, the applications M(W)P 2124/2003 and I.A.No.7157/2003 also disposed of.

Sd/-
L.C. Bhadoo
Judge

Thakur